

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

Plaintiff,

v.

CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS AND VERIZON CORPORATE  
SERVICES GROUP, INC.,

Defendants.

Case No. 2:23-cv-00352-JRG-RSP

**JURY TRIAL DEMANDED**

**JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Pursuant to Local Patent Rule 4-3, and the Court's Docket Control Order (Dkt. 40), Plaintiff Headwater Research, LLC ("Headwater") and Defendants Cellco Partnership, d/b/a Verizon Wireless and Verizon Corporate Services Group Inc. (collectively, "Defendants" or "Verizon") (all together, the "parties") respectfully submit the following Joint Claim Construction and Prehearing Statement.

**I. AGREED CLAIM CONSTRUCTIONS (P.R. 4-3(A)(1))**

The parties have not identified any agreed claim constructions.

**II. DISPUTED CLAIM CONSTRUCTIONS (P.R. 4-3(A)(2))**

The parties' proposed constructions of disputed terms are provided in the chart below. The parties' proposed constructions are also set forth in the accompanying **Exhibit A**, along with the intrinsic and extrinsic evidence on which the parties intend to rely.

**A. U.S. Patent No. 8,589,541**

Term No.	Claim Term	Headwater's Proposed Construction	Verizon's Proposed Construction
1	“one or more prospective ... communications [over a wireless network]”  (claims 1-174)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.
2	“service usage activity”  (claims 1-174)	No construction necessary; plain and ordinary meaning.	“an activity by the first software component that requires usage of a wireless network connection”
3	“background activity”  (claims 1-174)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.

**B. U.S. Patent No. 9,198,042**

Term No.	Claim Term	Headwater's Proposed Construction	Verizon's Proposed Construction
4	“device service state”  (claims 1-18)	No construction necessary; plain and ordinary meaning.	“information about the current status of the device required to adequately define the actions needed from the service controller to maintain proper device-assisted service (DAS) system operation”
5	“service policy setting”  (claims 1-18)	“policy setting for a network data service”	“rule for governing network service usage that can be implemented on the device”

6	“protected partition” (claims 1-18)	No construction necessary; plain and ordinary meaning.	“a secure device assisted service execution environment”
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**C. U.S. Patent No. 9,215,613**

	<b>Claim Term</b>	<b>Headwater’s Proposed Construction</b>	<b>Verizon’s Proposed Construction</b>
7	“differential traffic control policy” (claims 1-24)	No construction necessary; plain and ordinary meaning.	“rules for controlling network traffic that distinguishes between two or more things”
8	“classify whether a particular application capable of both interacting with the user in a user interface foreground of the device, and at least some Internet service activities when not interacting with the user in the device user interface foreground, is interacting with the user in the device user interface foreground”  (claims 1-24)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.
9	“the user of the device is directly interacting with that application or perceiving any benefit from that application”  (claim 6)	Not indefinite; no construction necessary; plain and ordinary meaning.	Indefinite.

**III. ANTICIPATED LENGTH OF TIME NEEDED FOR THE CLAIM CONSTRUCTION HEARING (P.R. 4-3(A)(3))**

The parties estimate that three hours will be needed for the claim construction hearing. The parties agree that each side will be allocated half of the total time permitted for the hearing.

**IV. PROPOSED WITNESSES TO BE USED AT THE CLAIM CONSTRUCTION HEARING (P.R. 4-3(A)(4))**

No party proposes to call witnesses at the claim construction hearing.

**V. OTHER ISSUES TO BE ADDRESSED PRIOR TO CLAIM CONSTRUCTION HEARING (P.R. 4-3(A)(5))**

The parties are not currently aware of any issues that they would propose taking up at a prehearing conference prior to the claim construction hearing.

Dated: August 27, 2024

*/s/ Michelle Zhu*

Katherine Q. Dominguez  
(NY Bar No. 4741237)  
kdominguez@gibsondunn.com  
Josh A. Krevitt  
(NY Bar No. 2568228)  
jkrevitt@gibsondunn.com  
Brian Rosenthal  
(NY Bar No. 3961380)  
brosenthal@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
200 Park Avenue  
New York, NY 10166-0193  
Telephone: (212) 351-4000  
Facsimile: (212) 351-4035

Robert Vincent  
rvincent@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
2001 Ross Avenue, Suite 2100  
Dallas, Texas 75201-2923  
Telephone: (214) 698-3100  
Facsimile: (214) 571-2900

Andrew W. Robb  
(CA Bar No. 291438)  
aroobb@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
310 University Ave  
Palo Alto, CA 94301  
Telephone: (650) 849-5300

Michelle Zhu  
mzhu@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036  
Telephone: (202) 777-9413

Melissa R. Smith  
melissa@gilliamsmithlaw.com  
**GILLIAM & SMITH, LLP**  
303 South Washington Avenue

*/s/ Marc Fenster*

Marc Fenster  
CA State Bar No. 181067  
Email: mfenster@raklaw.com  
Reza Mirzaie  
CA State Bar No. 246953  
Email: rmirzaie@raklaw.com  
Brian Ledahl  
CA State Bar No. 186579  
Email: bledahl@raklaw.com  
Ben Wang  
CA State Bar No. 228712  
Email: bwang@raklaw.com  
Adam Hoffman  
CA State Bar No. 218740  
Email: ahoffman@raklaw.com  
Dale Chang  
CA State Bar No. 248657  
Email: dchang@raklaw.com  
Paul Kroeger  
CA State Bar No. 229074  
Email: pkroeger@raklaw.com  
Neil A. Rubin  
CA State Bar No. 250761  
Email: nrubin@raklaw.com  
Kristopher Davis  
CA State Bar No. 329627  
Email: kdavis@raklaw.com  
James S. Tsuei  
CA State Bar No. 285530  
Email: jtsuei@raklaw.com  
Philip Wang  
CA State Bar No. 262239  
Email: pwang@raklaw.com  
Amy Hayden  
CA State Bar No. 287026  
Email: ahayden@raklaw.com  
Jason M. Wietholter  
CA State Bar No. 337139  
Email: jwietholter@raklaw.com  
Qi (Peter) Tong  
TX State Bar No. 24119042  
Email: ptong@raklaw.com

Marshall, TX 75670  
Telephone: (903) 934-8450  
Facsimile: (903) 934-9257

*Attorneys for Defendants*  
*Cellco Partnership, d/b/a Verizon Wireless*  
*and Verizon Corporate Services Group Inc.*

**RUSS AUGUST & KABAT**  
12424 Wilshire Blvd., 12th Floor  
Los Angeles, CA 90025  
Telephone: 310-826-7474

Andrea L. Fair  
**WARD, SMITH & HILL, PLLC**  
1507 Bill Owens Parkway  
Longview, Texas 75604  
Telephone: 903-757-6400  
andrea@wsfirm.com

*Attorneys for Plaintiff*  
*Headwater Research LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 27<sup>th</sup> day of August 2024, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

*/s/ Marc Fenster*  
Marc Fenster

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel complied with the requirements of Eastern District of Texas Local Rule CV-7(h). The parties are in agreement on filing this Joint Motion.

*/s/ Marc Fenster*  
Marc Fenster